CONFIDENTIAL

19 49 **File No.** R 294

REHABILITATION, HOUSING & BACKWARD CLASSES. **DEPARTMENT** 1145

Revd CT, dt 4/3/5

A **BRANCH**

Subject:— Departmental Enquiry

Misappropriation of Rice in the Bonai Relief Camp

P 3 E

Rev. CT

To Supdt. Chief Services

22/2

Copies out from the original file

File No. R 294 - A

Std. Sectt. Slip 24 B e.

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Karnatak

B Class

REHABILITATION DEPARTMENT.
"A" Dr.

Reference S.S.'s note on pp.93-94 ante.

3. With ref. to '4' of the note, it is submitted that as the D. of R. is the appointing authority for Camp Commandants' posts, he is competent to dismiss them. As regards '5', proper procedure has not been followed in this case. The procedure for holding departmental enquiry is explained briefly in the following paras.:-

3. Departmental enquiry falls into four stages:

a) First stage: Decision to proceed against the officer concerned;

b) Second " : Framing of charges;

c) Third " : Actual inquiry into charges;

d) Fourth " : Examination of evidence and final findings

In the present case first stage has been complied with.

Second stage.

(1) The charges should be framed by an Officer who is competent to award suitable punishment in the event of the charges being established.

(2) The charges must, in every case be stated in writing. There must be definite and must specifically state the allegations on which each charge is based and any other circumstances which it is proposed to take into consideration in passing orders in the case. A separate charge should be framed in respect of each separate offence.

Third stage.

(1) The enquiry into charges should be held by the officer who is competent to award suitable punishment in the event of the charges being established or by any other officer holding a post superior in rank to the accused officer selected by the competent officer for this purpose. In making his selection the competent officer should pay due regard to the importance of the enquiry and the status of the accused officer.

(2) In fairness to the accused, as well as to the enquiring officer, the enquiry (3rd stage) should not be entrusted:-

(a) to an officer who held the preliminary enquiry and expressed a definite opinion on the point at issue and where such opinion is adverse to the accused, or

b) to an officer directly subordinate to an officer, who has already expressed a definite opinion on the point at issue, and where such opinion is adverse to the accused.

In such cases an independent officer should be associated with the formal enquiry. As far as possible the independent officer should be an officer of the same department, unless all the officers in the department competent to hold the enquiry have already expressed opinions on the points at issue.

(3) The charges must be communicated to the accused officer who should be asked to submit his written explanation within a specified period which should be so fixed that the accused officer gets reasonable and sufficient time for preparing his defence. The accused officer should also be asked specifically in each case to state whether he wishes to be heard in person or to produce any witness or witnesses. If the accused officer so wishes or the enquiring officer so directs, an oral enquiry should be made. At that oral enquiry evidence should be heard as to such of the allegations as are not admitted and the person charged should be allowed to cross-examine the witness, to give evidence in person and to have such witnesses called as he may wish. The accused officer will not ordinarily be entitled to be represented by Counsel. All evidence should be recorded in the presence of the accused officer.

(4) The accused officer should be given reasonable facility for getting access to official records and documents which are proposed to be taken into consideration in passing the final order on the proceedings but he should not be allowed to remove original papers from official custody.

(5) Preliminary report or evidence recorded during the first stage of the enquiry should not be brought on to the record of the formal proceedings unless (i) it forms part of the charges, (ii) it was recorded in the presence of or is admitted by the accused officer, or (iii) it has been read over to the accused and he has been given sufficient opportunity to defend himself against it.

(6) The enquiry should be confined to specific charges and no evidence should be admitted which is not relevant to them. If after the charges have been framed fresh evidence comes to light, it should not be admitted in the proceedings until a fresh charge has been framed in respect of that evidence and the accused has been given reasonable opportunity to meet it.

(7) The proceedings should be concluded as expeditiously as possible.

Fourth Stage.

(1) A reasoned finding should be recorded on each charge separately taking into account the evidence on both sides. All the charges should then be considered as a whole and a finding as to the punishment to be awarded arrived at.

(2) When the enquiry has been held by an officer not competent to award suitable punishment the officer concerned should submit the case with his findings and recommendations to the officer who is so competent.

(3) On receipt of the Enquiring Officer's report the competent punishing authority should arrive at provisional conclusion in regard to the penalty to be imposed but before passing the final orders, should supply the accused officer with copy of the report of the enquiring authority and call upon him to show cause within a reasonable time not ordinarily exceeding one month against the particular penalty proposed to be inflicted. Any representation submitted by the accused in this behalf should be duly taken into consideration, before final orders are passed.

(4) A copy of the orders as finally passed should be communicated to the accused officer.

4. The papers may be returned to the D. of R.

with the above remarks.

Id/-

Director of Rehabilitation may see. Alternati

hss.4/6

if the terms of appointment permit, the officer may be discharged forthwith.

Id.
17/7/49.